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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,470	05/25/2005	Peter A. Muller	123885	5177

25944 7590 03/29/2006

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EXAMINER

SWINEHART, EDWIN L

ART UNIT PAPER NUMBER

3617

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/536,470

Applicant(s)

MULLER, PETER A.

Examiner

Ed Swinehart

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 8-13 is/are rejected.
- 7) ☒ Claim(s) 3 and 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The replacement sheet of drawing, figure 4 is disapproved by the examiner as containing New Matter. Specifically certain elements in the figure have been altered from the originally filed figure 4. For example element **23** is shaped differently, and the positioning of the bolts is considerably different as well, as well as the positioning of element **18** in relation to element **1**.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,4 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by McCormick.

McCormick shows the claimed invention, including a “Z-drive” which is laterally pivotable about pins **29** and **30** relative to the watercraft. A trim cylinder is provided.

Bell housing **20** as well as an unreferenced bellows/housing is provided about the cardon joint **17**. The pivot pins **29** and **30** are positioned as claimed, between the bell housing and lower Z-drive. Therefore either the pivot pins, or the gimbal ring **27** which carries the pivot pins, or both is intermediate the bell housing and Z-drive.

Re “laterally pivotable”, such fails to define over steering movement.

Re claim 2, “accommodates” is broad enough to mean “allow to exist”, and as such, the pivot tube as claimed fails to define over the inner bearing race or hollow bearing mounted gears at the upper end of the Z-drive.

Re claim 9, since no relationship has been made between the now set forth housing and tube, any of the housings and tubes of McCormick will meet this claim. For example, 25 is a housing, and 19 is a tube, through which the shaft 16 extends.

Re claim 10, such is treated as was claim 2 above.

Re claim 11, such is treated as was claim 9 above.

Re claim 4, "pivot motor" fails to define over the rack and pinion.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick as applied to claim 1 above, and further in view of DE 3434211.

McCormick fails to disclose the measurement of the angle of the Z-drive.

DE '211 teaches provision of a sensor on a Z-drive for angle measurement.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide McCormick with an angle measurement means as taught by DE '211.

Such a combination would have been desirable at the time of the invention so as to provide precise orientation of the unit.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bergstedt discloses the claimed invention, including a Z-drive, bell housing 5, cardon housing, as well as an intermediate housing above the Z-drive permitting lateral steering pivoting.

6. Applicant's arguments filed 1/23/2006 have been fully considered but they are not persuasive.

Applicant argues that McCormick fails to disclose an intermediate piece as claimed.

In response, the steering pivot pins are intermediate to the bell housing and Z-drive.

Applicant further argues that the Gimbal ring of McCormick could not be an intermediate piece, as it is not located between the bell housing and Z-drive.

Such is not correct. Since in fact it's the gimbal ring which essentially mounts the Z-drive to the bell housing, it is therefore inherently positioned thereinbetween, and is therefore "intermediate" the two.

7. Claims 3 and 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

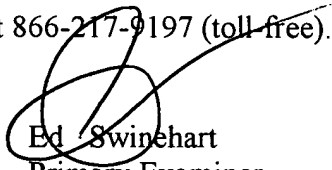
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).


Ed Swinehart
Primary Examiner
Art Unit 3617





Application No.:

JAN 2 1908

PATENT & TRADEMARK OFFICE

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Fig 3

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